

E. Stephen Derby , U.S. BANKRUPTCY JUDGE

PROCEEDING MEMO - ADVERSARY PROCEEDINGS

Date: 01/12/2004 Time: 10:00

03-05974 Miller et al v. Miller et al

Related:03-80504-ESD Charles J. Miller, Inc. Ch11

Donna S. Mangold representing Donald E. Miller (Plaintiff)

Donna S. Mangold representing Triple M., LLC (Plaintiff)

Donna S. Mangold representing Charles J. Miller Realty,
Inc. (Plaintiff)Donna S. Mangold representing Miller Bros. Leasing, LLP
(Plaintiff)

(no aty) representing Charles Miller Jr. (Defendant)

(no aty) representing Venable, LLP (Defendant)

(no aty) representing James L. Shea (Defendant)

Robert B. Green representing Anthony V. DiFerdinando II
(Defendant)

(no aty) representing Jacobs Ridge LLC (Defendant)

[3] Emergency Motion for Preliminary Injunction Filed by
Charles J. Miller Realty, Inc., Donald E. Miller, Miller
Bros. Leasing, LLP, Triple M., LLC.

Movant: Charles J. Miller Realty, Inc. Donald Miller Triple M., LLC Miller Br

[1] 498 (Other Action): Notice of Removal by Defendants
Anthony V. DiFerdinando II, Charles Miller Jr., Venable,
LLP, James L. Shea, Jacobs Ridge LLC Donald E. Miller
against Plaintiff's Triple M., LLC, Charles J. Miller
Realty, Inc., Miller Bros. Leasing, LLP. Receipt Number
40040152, Fee Amount \$150. (Attachments: # (1) Attachments#
(2) Attachments)

Movant: Charles J. Miller Realty, Inc. Donald Miller Triple M., LLC Miller Br

SCHEDULE:

- | | |
|------------------------------|---|
| 1. Discovery cutoff:_____ | 6. Pretrial memos/exhibits:_____ |
| 2. Dispositive motions:_____ | 7. Trial times est:_____ days _____ hrs |
| 3. Status report due:_____ | 8. Trial date:_____ time:_____ |
| 4. Motions hrg. date:_____ | 9. Expert witness & Rpts:_____ |
| 5. Final pretrial hrg:_____ | 10. Reissue Summons:_____ |

Granted _____ Denied _____ Withdrawn _____ Default _____ Consent _____ Under Adv. _____
 Adjourned / Continued to: _____ at _____ m. Notice: YES / NO

FINAL DISPOSITION:

_____ Judgment for Plaintiff(s) _____
 _____ Judgment for Defendant(s) _____
 _____ Consent _____ Withdrawn/ Dismissed/ Deny _____
 Amount: \$ _____ for want of Prosecution _____
 _____ Day Settlement Order _____
 _____ Decision Reserved _____ Moot _____
 _____ Default / No Response _____ Soldiers' & Sailors' Affidavit Due _____
 _____ Show Cause Order _____ Other: _____
 Adjourned / Continued to: _____ at _____ m. Notice: YES / NO
 Post Trial Memos Due: Plaintiff: _____ Defendant: _____

NOTES:

Court abstained and remand case to
 Carroll County sua sponte under 28
 USC §1334(c).

~~Defendants~~ Plaintiffs announced their intention
 to move for ~~the~~ remand based on Mand. tory
~~and~~ abstention under (c)(2), and court agreed it would
 be justified. ~~Also~~ also ~~likely~~ under (c)(1)

~~Action~~ involves non-debtor parties on both sides.
 Debtors' property not involved, only ~~that~~ of subsidiaries.

Mr. Coates requested to submit an order.

Stipulation by Ven. Lb disposes of merits as to it:
 "Ven. Lb is not representing ^{any} of the entities, it has no
 intention of representing them, or to be paid fees by
 them" (per Graham)

SIGN IN SHEET*** PLEASE PRINT ***IN RE: 03-8-0504 CHARLES J. MILLER, INC.COUNSEL NAMECLIENT

✓ James C. Olson

Creditors' Committee

✓ DALE COOTER

DONALD MILLER

✓ DONNA MANGOLD

"

✓ NELSON DECKELBAUM

"

DAVID RICE

ANTHONY DIFERDINANDO

✓ ANDREW GORDON

ANTHONY DIFERDINANDO

✓ JAMES VICTOR

DOUGLAS CORNELL INC
Miller Asphalt

✓ Patrick Pike

St. Paul.

✓ Michael Collins

Chas. Miller Jr. (et al.)

✓ ~~DA~~ L. Youngkas

Merc. & D & T Co.

✓ A Graham

Venable

✓ Robert B. Green

DiFernando

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ALSO ADMITTED IN NY AND DC

January 8, 2004

BY HAND DELIVERY

The Honorable E. Stephen Derby
United States Bankruptcy Court
for the District of Maryland
101 West Lombard Street
Baltimore, Maryland 21201

RE: *Miller, et al. v. Miller, et al.*
Adversary No. 03-5974-SD

Dear Judge Derby:

This firm represents Venable, LLP, one of the defendants in the above-referenced adversary proceeding. This matter was recently removed to this Court from the Circuit Court for Carroll County. We understand that, at the upcoming hearing on January 12, 2004 at 10:00 a.m., Your Honor will hear argument on Plaintiffs' Emergency Motion for Preliminary Injunction.

On the morning of January 12, 2004, I am scheduled to appear for an oral argument in the Court of Special Appeals of Maryland. That morning, coincidentally, my partner, David Shuster (who is also representing Venable in this matter) is scheduled to appear for an oral argument before the same panel of judges in the Court of Special Appeals in a different matter. After coordinating with the clerk's office at the Court of Special Appeals, my oral argument will proceed first, at 9:30 a.m., and Mr. Shuster's argument will proceed second. As soon as our respective oral arguments conclude, each of us will drive back to Baltimore for the hearing in this case. I anticipate that one or both of us will be back in Baltimore between 11:00 a.m. and 11:30 a.m.

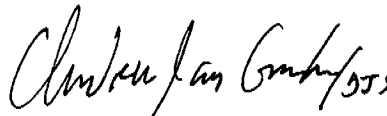
Rec'd in chambers
1-8-04
[Signature]

The Honorable E. Stephen Derby
January 8, 2004
Page Two

In light of the above scheduling conflict, all attorneys of record in this adversary proceeding consent, subject to Your Honor's approval, to placing the emergency motion at the end of the Court's Monday docket. It is my understanding that the full day has been set aside for the hearing. If either Mr. Shuster or I have any problem returning to Baltimore before 11:30 a.m., one of us will call Your Honor's chambers, but I do not anticipate that will be necessary.

Please let me or Mr. Shuster know whether the Court has any objection to the foregoing request, and I will be happy to communicate the Court's response to the other attorneys. Thank you for your kind attention to this matter.

Very truly yours,



Andrew Jay Graham

AJG:hsm

cc: James A. Vidmar, Jr., Esquire (via facsimile and first-class mail)
G. Stewart Webb, Jr., Esquire (by hand delivery)
Dale A. Cooter, Esquire (via facsimile and first-class mail)
Donna S. Mangold, Esquire (via facsimile and first-class mail)
Michael S. Libowitz, Esquire (by hand delivery)
Robert B. Green, Esquire (via facsimile and first-class mail)
Gary R. Greenblatt, Esquire (via facsimile and first-class mail)
Mr. Booker Livingston (by hand delivery)